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|-------------------------------|---|----------------------|
| In re Application of:         | : |                      |
| HASUNUMA, <i>et al.</i>       | : | DECISION ON PETITION |
| Application No. 09/227,935    | : | TO WITHDRAW HOLDING  |
| Filed: January 11, 1999       | : | OF ABANDONMENT       |
| Attorney Docket No. 49657-274 | : |                      |

This is a decision on the petition filed May 20, 2003, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to respond to the decision of the Board of Appeals and Interferences rendered on February 25, 2003 and because the period for seeking court review of the decision expired and there were no allowed claims. A Notice of Abandonment was mailed on May 13, 2003.

The petitioner asserts that on April 25, 2003, a response including a Request for a Continued Prosecution Application (CPA) and a preliminary amendment was filed in the above-referenced application. To support this assertion, the petitioner has submitted a copy of a return postcard that acknowledges receipt of a response by the Patent and Trademark Office on April 25, 2003.

A review of the application file record reveals that the response filed April 25, 2003 is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Additionally, the PTO application fee records for the above identified application indicate that a fee for a CPA, having an April 25, 2003 mailroom date, was credited on April 29, 2003.

In view of the above, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The copy of the response filed April 25, 2003, submitted with the instant petition, is accepted since the response originally submitted was apparently lost.

Decision on Petition to Withdraw Holding of Abandonment

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The application file is being forwarded to the Technology Center 2800 support staff for processing and entry of the response received on April 25, 2003. From there, the application will be forwarded to the examiner for appropriate action.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.



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